

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

DONALD J. CALDERWOOD §

V. § CIVIL ACTION NO. 2:22cv177

HARRISON COUNTY JAIL §

ORDER OF DISMISSAL

Plaintiff Donald J. Calderwood, an inmate proceeding *pro se*, filed this numbered civil rights lawsuit. The complaint was referred to United States Magistrate Judge Roy S. Payne for findings of fact, conclusions of law, and recommendations for the disposition of the case.

On June 25, 2025, Judge Payne issued a Report, (Dkt. #15), recommending that Plaintiff's lawsuit be dismissed, without prejudice, for Plaintiff's failure to comply with an order of the Court and to prosecute his own case. Judge Payne also recommended that the Court suspend the statute of limitations for a period of thirty days from the date of Final Judgment. A copy of this Report was mailed to Plaintiff at his last-known address, with an acknowledgment card. The docket reflects that the Report was returned as "undeliverable," (Dkt. #16), with a handwritten notation that Plaintiff "is no longer in HCJ custody." To date, however, Plaintiff neither filed objections to the Report nor a notice of a change of address.

Because objections to the Magistrate Judge's Report have not been filed, Plaintiff is barred from *de novo* review by the District Judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to proposed factual findings and legal conclusions accepted and adopted by the district court. *Douglass v. United Services Auto. Ass'n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has reviewed the pleadings in this cause and the Report of the Magistrate Judge. Upon such review, the Court has determined that the Report of the Magistrate Judge is correct. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918, 109 S.Ct. 3243 (1989) (holding that where no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law.").

IT IS ORDERED that the Report of the United States Magistrate Judge, (Dkt. #15), is **ADOPTED** as the opinion of the Court. Plaintiff's civil-rights proceeding is hereby **DISMISSED**, without prejudice, for Plaintiff's failure to comply with an order of the Court and to prosecute his case. The statute of limitations in this case is **SUSPENDED** for a period of thirty (30) days from the date of Final Judgment. Finally, it is

ORDERED that any and all motions which may be pending in this action are hereby **DENIED**.

So ORDERED and SIGNED this 23rd day of July, 2025.



RODNEY GILSTRAP
UNITED STATES DISTRICT JUDGE